

**REAL ESTATE BOARD
MINUTES
MADISON, WISCONSIN
June 28, 2001**

PRESENT: Richard Hinsman, Bettye Lawrence, Harold (Hal) Lee, Richard Kollmansberger, Jerome Nelson and James Imhoff, Jr.

EXCUSED: Nancy Gerrard

STAFF PRESENT: Cletus Hansen; William Black, Legal Counsel; Division of Enforcement staff were present for portions of the meeting.

GUESTS: Rick Staff, WRA

CALL TO ORDER

The meeting was called to order at 10:35 a. m. by Jim Imhoff, Chair, upon confirmation that the public notice was timely given. A quorum of 6 members was present

AGENDA

MOTION: Bettye Lawrence, moved, seconded by Jerome Nelson, to adopt the agenda. Motion carried unanimously.

MINUTES (04/26/01)

MOTION: Bettye Lawrence moved, seconded by Jerome Nelson, to approve the minutes as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Clete Hansen

- **Board Roster**

The Board received a copy of the June 2001 roster. Harold Lee advised that his telephone number also his fax number.

- **Meeting Dates for 2001**

Noted

- **Screening Statistics**

The Board received a copy of the April 26, 2001, screening statistics. Forty-one cases were screened.

- **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules**

Clete Hansen explained that this is a monthly document that will be included in each Board meeting packet, as requested by William Dusso. A section has been recently added, entitled Press Release. The Press Release shows disciplinary actions taken by the Department and its boards during the previous month. The Board reviewed a memorandum from William Dusso, dated May 22, 2001, that explains the purpose and intent of the monthly press releases.

- **To-Pass Folder**

The To-Pass Folder was circulated.

LEGISLATION

LRB 2647/1 re: Licensing Requirements for Real Estate Brokers Licensed by Other States

Clete Hansen explained that he informed Myra Shelton, the Department's Executive Assistant and Legislative Liaison, concerning the Board's motion at its last meeting, approving the bill draft, LRB-2647/1. Hansen stated that he has received no information about the introduction of this draft as a bill; however, that would be the next step in the process

Update re: Bills and Proposals

- **Biennial Budget Bill**

Clete Hansen referred to the Biennial Budget Bill that had just been passed by the Senate and was being considered by the Assembly. Hansen stated that there was some indication a month or two ago about the possibility that the license fees would not increase quite as much as requested by the Department.

- **Regulation of Closing Agents**

Rick Staff gave the Board a copy of correspondence between him and another WRA staff person, regarding a provision in the Senate budget proposal. This provision relates to regulating closing agents by including a closing agent registration requirement in Chapter 452, Stats. Mr. Staff said that the WRA opposes the proposal, because the proposal needs a lot more work. Many of the provisions need clarification and need to be amended to properly address certain issues.

MOTION: Jerome Nelson moved, seconded by Richard Kollmansberger, to request that Clete Hansen send a letter to the Conference Committee and inform the Committee that the Board opposes this proposal, because it needs more discussion and review. Motion carried unanimously.

ADMINISTRATIVE RULES

Hansen verified with the Board that the administrative rule proposal relating to supervision of employees is temporarily on hold, while the Board awaits action by the Legislature on a revision of s. 452.12 (3) (b), Stats., relating to the requirement that a branch office be supervised by a full-time branch office manager.

WRA ISSUES IMPACTING THE BOARD AND THE DEPARTMENT

Jim Imhoff conducted a line-by-line review of 21 issues listed in a memorandum given to Secretary Oscar Herrera by the Wisconsin Realtors Association on May 8, 2001. Hansen gave the Board a copy of Secretary Herrera's response, which included a statement that he has formed a task force to review these issues. Hansen said that he would keep the Board informed of the conclusions reached by the task force, consisting of himself, Deputy Secretary, Bill Conway, and General Counsel Bill Dusso. Imhoff also invited the Board members to attend a 2-hour discussion session between staff in the Department and representatives of the WRA, regarding the impact of e-commerce on the regulation of the Department and the Board. This session will be held on July 10, 2001, from 1:30 to 3:30 p. m.

DISCIPLINE RELATING TO MORTGAGE FRAUD

Imhoff said that he had had discussions with some of the DOE staff about the seriousness of complaints relating to mortgage fraud and the need to give the proper attention to these cases. He said the Board and the DOE may want to look a bit harder at some of these cases and identify all of the potential violations that are evident in these cases. He also suggested that more attention may have to be given to proper agency disclosure, proper completion of the forms, and the need for language in contracts that can be understood by all. Angi Jerney pointed out that there is a big difference between the use of "accepted" and "excepted" in a contract.

MISCELLANEOUS CORRESPONDENCE

Sharon Stillman

Ms. Stillman expressed concern about certain practices in the industry. Imhoff said that he would respond to Ms. Stillman, because many of the issues relate to local Realtor board matters and the MLS.

Kent Tess-Mattner

Clete Hansen gave the Board a copy of correspondence between Mr. Tess-Mattner and William Dusso, regarding the legality of a Home Link Marketing Plan that Shorewest Realtors, Inc. was planning to use, in regard to including home inspectors in the plan. Imhoff requested that the Board be kept informed about any other developments regarding this issue.

ERA Mortgage

The Board reviewed a copy of a letter that ERA Mortgage had addressed to “Real Estate Professionals” on in May 2001. The letter pertained to the Gramm-Leach-Bliley Privacy Act.

Rick Staff informed the Board that he has done some research on the impact of the Gramm-Leach-Bliley Privacy Act and has, generally, concluded that it does not directly apply to real estate brokerage and property management. However, if a real estate broker gets involved in lending, insurance settlement services, or title work, such “financial services” will fall under this act.

Mike Wilson

The Board noted correspondence between Mike Wilson and William Black concerning the need for licensure when engaged in certain activities on the Internet.

Real Estate Consumer Alliance

The Board noted a copy of an e-mail message the Department received concerning the formation of a Consumer Alliance and a Consumer Bill of Rights. The message was rather informal. Therefore, the Board will await more information about these matters.

PUBLIC COMMENT

Public comment was received from Rick Staff at various times during the meeting. Mr. Staff also expressed concern about licensees who confuse the right for inspection granted in a contract with the right for conducting a test of some type. The inspection language by itself does not grant the right to conduct a test.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT

Gerald Scanlan, a prosecutor in the Division of Enforcement, presented the stipulation relating to Julius O. Kaulfuerst (Colgate, WI).

Charles Howden, a prosecutor in the Division of Enforcement, presented the stipulations relating to Daniel J. Navin (Kenosha, WI) and Steven S. Simonovich (Pleasant Prairie, WI).

The Board noted the stipulation submitted by Colleen Baird, relating to Shawn M. Anderson (Eau Claire, WI). Ms. Baird was on vacation.

RECESS TO CLOSED SESSION

MOTION: Bettye Lawrence moved, seconded by Richard Hinsman, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person.

Specifically, to discuss the Case Status Report, a monitoring report, case closings, stipulations, and proposed decisions that were presented in Open Session. Motion carried unanimously by a roll call vote: Richard Kollmansberger-yes; Bettye J. Lawrence-yes; Jerome M. Nelson-yes; Harold Lee-yes; Jim Imhoff and Richard Hinsman-yes. Motion carried unanimously.

Open Session recessed at 11:59 a. m.

The Board received a copy of the Division of Enforcement Case Status Report.

The Board deliberated on stipulations, administrative warnings, a monitoring report, case closings and a proposed decision. Final voting on these issues was conducted in Open Session.

RECONVENE IN OPEN SESSION

MOTION: Harold Lee moved, seconded by Jerry Nelson, to adjourn the Closed Session and to reconvene in Open Session at 12:52 p. m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

CASE CLOSINGS

MOTION: Jerry Nelson moved, seconded by Bettye Lawrence, to close the following 25 cases presented by the Division of Enforcement for closing. Motion carried unanimously.

99 REB 337	IE	97 REB 012	P3
99 REB 356	IE	99 REB 046	IE
00 REB 030	P5	99 REB 084	IE
00 REB 078	NV	98 REB 303	P3
00 REB 088	NV	99 REB 369	P1
00 REB 278	NV	97 REB 179	P3
99 REB 279	IE	98 REB 332	P1
00 REB 037	P1	99 REB 277	IE
00 REB 072	P3	99 REB 209	P1
00 REB 060	NV	98 REB 220	IE & P5 (Various Respondents)
99 REB 282	P1	00 REB 147	IE & P5 (Various Respondents)
01 REB 019	P5	00 REB 237	IE & P5 (Various Respondents)
99 REB 119	IE		

ADMINISTRATIVE WARNINGS

Julie A Walber
Thomas G. Karls

Community Real Estate Services, LLP

MOTION: Jerry Nelson moved, seconded by Richard Hinsman, to issue an administrative warning to Julie A Walber, Thomas G. Karls and Community Real Estate Services, LLP. Motion carried unanimously.

STIPULATIONS

Shawn W. Anderson (Eau Claire, WI)

MOTION: Richard Kollmansberger moved, seconded by Richard Hinsman, to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order in the disciplinary matter involving Shawn W. Anderson. Motion carried unanimously.

Julius O. Kaulfuerst (Colgate, WI)

MOTION: Bettye Lawrence moved, seconded by Jerry Nelson, to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order in the disciplinary matter involving Julius O. Kaulfuerst. Motion carried unanimously.

Daniel J. Naven (Kenosha, WI)

MOTION: Jerry Nelson moved, seconded by Bettye Lawrence, to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order in the disciplinary matter involving Daniel J. Naven. Motion carried unanimously.

Steven S. Simonovich (Pleasant Prairie, WI)

MOTION: Harold Lee moved, seconded by Richard Hinsman, to accept the Stipulation, Findings of Fact, and Conclusions of Law and Order in the disciplinary matter involving Steven S. Simonovich. Motion carried unanimously.

PROPOSED DECISION

Rainbow Auction & Realty Co. and Jon S. Schuster (Onalaska, WI)

The Board reviewed the Proposed Decision of the Administrative Law Judge, the Respondent's Objections to Proposed Decision and Motion for Reconsideration and to Reopen Testimony, and the Division of Enforcement's Response to the Objections to Proposed Decision and the Motion for Reconsideration.

MOTION: Harold Lee moved, seconded by Richard Kollmansberger, to accept the Proposed Decision, Findings of Fact, and Conclusions of Law and Order in the matter disciplinary matter involving Rainbow Auction & Realty and Jon S. Schuster. Motion carried unanimously.

MONITORING

Elizabeth Hough (Oxford, WI)

Melvyn Mueller (Neillsville, WI)

Annette Reynold (Milwaukee, WI)

MOTION: Jerry Nelson moved, seconded by Richard Hinsman, to grant an extension of time for completing requirements, as follows: Hough and Mueller to the end of August; Reynolds until the end of September. Motion carried unanimously.

By consensus the meeting adjourned at 1:55 p. m.